



NAILAH K. BYRD
CUYAHOGA COUNTY CLERK OF COURTS
1200 Ontario Street
Cleveland, Ohio 44113

Court of Common Pleas

New Case Electronically Filed: COMPLAINT
July 14, 2020 12:38

By: ALAN I. GOODMAN 0012660

Confirmation Nbr. 2030797

DONALD HARRISON, ET AL

CV 20 934850

vs.

Judge: KELLY ANN GALLAGHER

PINPOINT PAINTING, LLC, ET AL

Pages Filed: 7

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

DONALD HARRISON)	CASE NO.
18337 Ferncliffe)	
Cleveland, OH 44135)	JUDGE
)	
and)	
)	COMPLAINT WITH CLASS
MICHAEL A. HARRISON)	ACTION ALLEGATIONS
14326 Gallatin)	
Brook Park, OH 44142)	<u>(JURY DEMAND ENDORSED</u>
)	<u>HEREIN)</u>
Plaintiffs)	
)	
vs.)	
)	
PINPOINT PAINTING, LLC.)	
8001 Sweet Valley Dr. #10)	
Valley View, OH 44125)	
)	
and)	
)	
DOUG RAHMY)	
c/o Pinpoint Painting, LLC)	
8001 Sweet Valley Dr. #10)	
Valley View, OH 44125)	
)	
and)	
)	
ZAK FORSYTHE)	
c/o Pinpoint Painting, LLC)	
8001 Sweet Valley Dr. #10)	
Valley View, OH 44125)	
)	
Defendants)	

1. Plaintiffs Donald Harrison and Michael Harrison bring this action against Defendants Pinpoint Painting, LLC, and its owners Doug Rahmy and Zak Forsythe to recover unpaid overtime compensation under provisions of the Fair Labor Standards Act of 1938, as

amended, 29 U.S.C. § 201 *et seq.* (the “FLSA”) and the Ohio Minimum Fair Wage Standards Act, O.R.C. § 4111.01 *et seq.*, and in particular R.C. 4111.03 which requires an employer to pay an employee time and a half his wage rate for hours worked in excess of 40 hours in any one work week as well as the Ohio Constitution, Article II, § 34(A). Plaintiffs also bring this action to recover unpaid wages under R.C. 4113.15.

2. Plaintiffs brings this action on behalf of others similarly situated.

3. Plaintiffs worked as painters and performed other duties for the defendants from approximately September 1, 2014 until on or about June 11, 2020 and regularly worked more than 40 hours but were not paid the overtime premium which the law requires.

4. Plaintiff Donald Harrison earned \$22.00 per hour and plaintiff Michael Harrison earned \$21.00 per hour.

COUNT ONE

Violation of the Fair Labor Standards Act

5. At all times material to this action, Defendant Pinpoint Painting, LLC was an enterprise engaged in commerce or in the production of goods for commerce as defined by § 203(s)(1)(A) and (B) of the FLSA.

6. At all times material, the defendants Rahmy and Forsythe employed the plaintiffs in an hourly, non-supervisory, non-exempt position and were both employers as defined under the law.

7. At all times relevant to this action, Defendants employed Plaintiffs in hourly, non-exempt positions.

8. At all times material in this action, Plaintiffs were both “employees” of the Defendants as defined by § 203(e)(1) of the FLSA and have worked for them within three years preceding the filing of this lawsuit.

9. Plaintiffs constantly worked more than 40 hours per week and while they were paid their regular hourly rates they were not paid the premium whenever they worked more than 40 hours in any work period.

10. Defendants intentionally, willfully and/or with reckless disregard of the law, failed to pay the Plaintiffs the overtime premium according to the provisions of § 207 of the FLSA, which requires employers to pay non-exempt employees for work in excess of forty (40) hours per week at a rate not less than one and one-half times the regular rate at which they were employed.

11. For the last three years, the Defendants had aware of the requirements of the FLSA and the corresponding regulations. Despite this knowledge, Defendants failed to pay the Plaintiffs the overtime premium as required by the FLSA.

12. Defendants engaged in a pattern and practice of violating the provisions of the FLSA by failing to pay Plaintiffs in accordance with § 207 of the FLSA.

13. As a direct and proximate result of the Defendants violation of the FLSA, Plaintiffs have suffered damages by failing to receive the total compensation in which they are entitled pursuant to § 207 of the FLSA.

14. As a direct and proximate result of the Defendants violation of the FLSA, Plaintiffs will face the prospect of paying tax penalties when and if they receive the compensation they are due and will have to incur extra expenses when they file amended state, federal and local tax returns.

15. In addition to the amount of unpaid wages owed to the Plaintiffs, they are entitled to recover an equal amount in addition to those damages as liquidated damages pursuant to 29 U.S.C. § 216(b). They are also entitled to pre-judgment interest on the damages.

16. Defendants failed to make a good faith effort to comply with the FLSA.

17. Plaintiffs are entitled to an award of attorney fees pursuant to 29 U.S.C. § 216(b).

COUNT TWO

Violation of the Ohio Minimum Fair Wage Standards Act

18. Plaintiffs incorporate herein by reference the foregoing allegations of this Complaint.

19. Plaintiffs bring this claim to recover unpaid overtime compensation under Ohio Revised Code §§ 4111.03 and 4111.10, as well as Article II, Section 34(a) of the Ohio Constitution.

20. The acts of which Plaintiffs complain are in violation of the Ohio Minimum Fair Wage Standards Act and Article II, Section 34(a) of the Ohio Constitution.

21. In addition to the amount of unpaid minimum wages owing to Plaintiffs, they are also entitled to recover an equal amount in addition to those damages as liquidated damages pursuant to Ohio Revised Code § 4111.14 and Article II, Section 34(a) of the Ohio Constitution, as well the right to recover other costs and attorney fees.

COUNT THREE

Violation of Ohio Revised Code 4113.15

22. Plaintiffs incorporates herein by reference the foregoing allegations of this Complaint.

23. Ohio Revised Code §4113.15 requires an employer to pay all wages due and owing within the time period specified therein.

24. Ohio Revised Code § 4113.15(B) requires an employer who fails to make full wage payments for 30 days beyond the regularly scheduled pay day or, where no regularly scheduled pay day is applicable, in 60 days, liable for liquidated damages in an amount equal to 6% of the amount of the wages still unpaid and in contest or disputed, or \$200, whichever is greater.

25. Defendants did not pay Plaintiffs all the wages due and owed to them within the required period of time for the last six years.

26. Defendants are liable to Plaintiffs for such damage for each week they did not make full payment of wages to Plaintiffs.

COUNT FOUR

Class Action Allegations

27. Plaintiffs seek to represent all past and present non-exempt employees who worked or still work for the Defendants and who suffered lost wages and/or owed compensation because of the violations previously set out herein.

28. This class is too numerous that joinder of all members is impracticable.

29. There are common questions of law and fact to members of this class, to-wit: whether the non-exempt employees were paid the over time premium as required by state and federal law with respect to wages for all the workers performed over the past three years.

30. The claims of the Plaintiffs are typical of the claims for the class.

31. The Plaintiffs are capable to fairly and adequately protect the interest of the class.

32. Prosecuting separate actions by class members would create the risk of inconsistent or varying adjudication with respect to the individual class members and would establish incapable standards and conduct for the defendants.

33. Adjudication with respect to the Plaintiffs to this particular matter would be dispositive or the interest of the other members of the class and would not in any manner substantially impair their ability to protect their interest.

34. In failing to pay the Plaintiffs and other members of the alleged class the Defendants did so on grounds that apply to all members of the class making injunctive relief and corresponding declaratory relief appropriate with respect to the class as a whole.

35. Plaintiffs claim the question of law and fact are common to themselves and class members which predominates over any question affecting only individual members and that a class action is superior to other methods for fairly and adequately adjudicating this matter.

WHEREFORE, Plaintiffs respectfully request this court:

1. Declare the policies and practices of the Defendants as described herein to be unlawful and in violation federal and state law.

2. Certify the class Plaintiffs seek to represent and order such affirmative and equitable relief to ensure the class members are paid appropriate compensation and damages.

3. Grant Plaintiffs and members of the class a permanent injunction prohibiting the Defendants from engaging in any policy or practice which fails to pay the Plaintiffs for the overtime premium for all hours worked over 40 hours as set forth in Counts I and II of the complaint.

4. Order Defendants to make Plaintiffs and members of the class whole by appropriate back pay if applicable and benefits in amounts to be determined at trial under Counts I, II and III of the complaint including liquidated damages and attorney fees under Counts I and II of this complaint.

5. Award Plaintiffs and members of the class pre and post judgment interest on all sums owed.

6. Award Plaintiffs and members of the class the cost of the action including costs of reasonable attorney fees under Counts I and II of this complaint and an additional \$200.00 for each week the Plaintiffs and members of the class were not paid the full amount due.

Respectfully submitted,

/s/ Alan I. Goodman

Alan I. Goodman (0012660)

55 Public Square, Suite 1330

Cleveland, Ohio 44113

Tele: (216) 456-2486

Fax: (216) 456-2487

agoodman@aiglaw.com

JURY DEMAND

Plaintiff hereby demands a trial by jury on all causes of action.

/s/ Alan I. Goodman

Alan I. Goodman

Co-counsel for Plaintiffs

CASE NO. CV20934850	D1 CM	SUMMONS NO. 42123871
-------------------------------	-------	--------------------------------

Rule 4 (B) Ohio

Rules of Civil
Procedure

SUMMONS

DONALD HARRISON, ET AL VS PINPOINT PAINTING, LLC, ET AL	PLAINTIFF DEFENDANT
--	--

PINPOINT PAINTING, LLC
8001 SWEET VALLEY DR. #10
VALLEY VIEW OH 44125

Said answer is required to be served on:



Plaintiff's Attorney

ALAN I GOODMAN
55 PUBLIC SQUARE SUITE 1330

CLEVELAND, OH 44113-0000

You have been named defendant in a sums complaint (copy attached hereto) filed in Cuyahoga County Court of Common Pleas, Cuyahoga County Justice Center, Cleveland, Ohio 44113, by the plaintiff named herein.

You are hereby summoned and required to answer the complaint within 28 days after service of this summons upon you, exclusive of the day of service.

Said answer is required to be served on Plaintiff's Attorney (Address denoted by arrow at left.)

Your answer must also be filed with the court within 3 days after service of said answer on plaintiff's attorney.

If you fail to do so, judgment by default will be rendered against you for the relief demanded in the complaint.

Case has been assigned to Judge:

KELLY ANN GALLAGHER
Do not contact judge. Judge's name is given for attorney's reference only.

NAILAH K. BYRD
Clerk of the Court of Common Pleas

ayndrk



DATE SENT
Jul 14, 2020

By _____
Deputy

COMPLAINT FILED 07/14/2020





UNITED STATES
POSTAL SERVICE

Date Produced: 07/27/2020

CERTIFIED MAIL SOLUTIONS INC.:

The following is the delivery information for Certified Mail™/RRE item number 9314 8001 1300 3540 4857 42. Our records indicate that this item was delivered on 07/20/2020 at 11:59 a.m. in CLEVELAND, OH 44125. The scanned image of the recipient information is provided below.

Signature of Recipient :

[Handwritten signature]
BRADLEY BRYD

Address of Recipient :

*8001 Sweet
Valley DR*

Thank you for selecting the Postal Service for your mailing needs. If you require additional assistance, please contact your local post office or Postal Service representative.

Sincerely,
United States Postal Service

The customer reference number shown below is not validated or endorsed by the United States Postal Service. It is solely for customer use.

CASE NO. CV20934850	D2 CM	SUMMONS NO. 42123872
-------------------------------	-------	--------------------------------

Rule 4 (B) Ohio

Rules of Civil
Procedure

SUMMONS

<p>DONALD HARRISON, ET AL VS PINPOINT PAINTING, LLC, ET AL</p>	<p>PLAINTIFF</p> <p>DEFENDANT</p>
---	---

<p>DOUG RAHMY CO PINPOINT PAINTING, LLC 8001 SWEET VALLEY DR. #10 VALLEY VIEW OH 44125</p>
--

Said answer is required to be served on:



Plaintiff's Attorney

<p>ALAN I GOODMAN 55 PUBLIC SQUARE SUITE 1330 CLEVELAND, OH 44113-0000</p>

Case has been assigned to Judge:

<p>KELLY ANN GALLAGHER Do not contact judge. Judge's name is given for attorney's reference only.</p>

<p>DATE SENT Jul 14, 2020</p>
--

NAILAH K. BYRD
Clerk of the Court of Common Pleas

ayndrk

By _____
Deputy



COMPLAINT FILED 07/14/2020





UNITED STATES
POSTAL SERVICE

Date Produced: 07/27/2020

CERTIFIED MAIL SOLUTIONS INC.:

The following is the delivery information for Certified Mail™/RRE item number 9314 8001 1300 3540 4857 66. Our records indicate that this item was delivered on 07/20/2020 at 11:59 a.m. in CLEVELAND, OH 44125. The scanned image of the recipient information is provided below.

Signature of Recipient :

[Handwritten signature]
BRAD BRYD

Address of Recipient :

*801 Sweet
Valley DR*

Thank you for selecting the Postal Service for your mailing needs. If you require additional assistance, please contact your local post office or Postal Service representative.

Sincerely,
United States Postal Service

The customer reference number shown below is not validated or endorsed by the United States Postal Service. It is solely for customer use.

CASE NO. CV20934850	D3 CM	SUMMONS NO. 42123873
-------------------------------	-------	--------------------------------

Rule 4 (B) Ohio

Rules of Civil
Procedure

SUMMONS

DONALD HARRISON, ET AL
VS
PINPOINT PAINTING, LLC, ET AL

PLAINTIFF

DEFENDANT

ZAK FORSYTHE
CO PINPOINT PAINTING, LLC
8001 SWEET VALLEY DR. #10
VALLEY VIEW OH 44125

You have been named defendant in a sums complaint (copy attached hereto) filed in Cuyahoga County Court of Common Pleas, Cuyahoga County Justice Center, Cleveland, Ohio 44113, by the plaintiff named herein.

You are hereby summoned and required to answer the complaint within 28 days after service of this summons upon you, exclusive of the day of service.

Said answer is required to be served on Plaintiff's Attorney (Address denoted by arrow at left.)

Your answer must also be filed with the court within 3 days after service of said answer on plaintiff's attorney.

If you fail to do so, judgment by default will be rendered against you for the relief demanded in the complaint.

Said answer is required to be served on:



Plaintiff's Attorney

ALAN I GOODMAN
55 PUBLIC SQUARE SUITE 1330

CLEVELAND, OH 44113-0000

Case has been assigned to Judge:

KELLY ANN GALLAGHER
Do not contact judge. Judge's name is given for attorney's reference only.

NAILAH K. BYRD
Clerk of the Court of Common Pleas

Nailah K. Byrd

By _____
Deputy



DATE SENT
Jul 14, 2020

COMPLAINT FILED 07/14/2020





UNITED STATES
POSTAL SERVICE

Date Produced: 07/27/2020

CERTIFIED MAIL SOLUTIONS INC.:

The following is the delivery information for Certified Mail™/RRE item number 9314 8001 1300 3540 4857 80. Our records indicate that this item was delivered on 07/20/2020 at 11:59 a.m. in CLEVELAND, OH 44125. The scanned image of the recipient information is provided below.

Signature of Recipient :

[Handwritten signature]
BRAD BRYD

Address of Recipient :

*801 Sweet
Valley DR*

Thank you for selecting the Postal Service for your mailing needs. If you require additional assistance, please contact your local post office or Postal Service representative.

Sincerely,
United States Postal Service

The customer reference number shown below is not validated or endorsed by the United States Postal Service. It is solely for customer use.